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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,341	07/22/2003	Henry Adam Sowizral	004524.P041C	8589

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EXAMINER

TRAN, PHUC H

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,341

Applicant(s)

SOWIZRAL ET AL.

Examiner

PHUC H. TRAN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-21 is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 22 is/are rejected.
- 7) ☒ Claim(s) 3,4,6 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mawhinney et al. (U.S. Patent No. 6038219) in view of Cern (U.S. Patent No. 5815298).

- With respect to claims 1, 5, and 22, Mawhinney teaches a system comprising: first and second transceivers to exchange customer traffic via a primary channel, which comprises an analog link (e.g. Fig. 3); first and second network devices coupled to the first and second transceivers, respectively, to selectively route the customer traffic via the primary channel or via an alternative channel (e.g. Fig. 5A); and first and second link quality agents coupled to the first and second transceivers, respectively (e.g. block 420 and 480 in Fig. 5A), and coupled to the first and second network devices, respectively, to monitor a quality of the analog link (e.g. block 212 in Fig. 3 monitor the quality and fault detection of links) and the control the first and second network devices to route the customer traffic to the alternative channel (block 306 in Fig 4) and to route a test traffic to the analog link is determined by at least one of the first and second link quality agents to have entered a marginal state (e.g. block 308 in Fig. 4; col. 8, lines 55-65). Mawhinney fails to teach the wireless optical system transceiver. Cern discloses the optical transceiver (block 10 in Fig. 2). The optical transceiver of Cern can be implement into

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Mawhinney by replace the ports (Mawhinney, Fig. 3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the optical transceiver of Cern into Mawhinney's access device (block 212 in Fig. 3) for transmitting data information in WLAN with high data rate and more efficiency.

- With respect to claim 2, Mawhinney further comprises rerouting the customer data to be transmitted over the analog link and discontinuing transmission of the test data over the analog link when it is determined by the link quality agent that the quality of the analog link has returned to a non-marginal state (col. 8, lines 61-65).

### ***Allowable Subject Matter***

3. Claims 7-21 are allowed.
4. Claims 3, 4, 6 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Cern (U.S. Patent No. 5815298) discloses system and method for wirelessly communicating a sound signal.

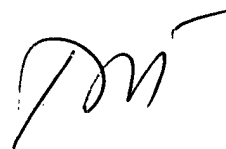
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran  
Assistant Examiner  
Art Unit 2664



DANG TON  
PRIMARY EXAMINER

P.t  
July 8, 2005